

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MELVIN MARCUS JOHNSON,

Petitioner,

v.

DAN VAN OGLE,

Respondent.

CASE NO. 3:21-cv-05877-RSM-BAT

**ORDER REFERRING TO THE
COURT OF APPEALS**

Having reviewed the Report and Recommendation of the assigned Honorable United States Magistrate Judge, any objections to that, and the remaining record, the Court finds and ORDERS:

- 1) After notice of Filing Deficiency from the Court, Dkt. #9, Petitioner has failed to submit legible Objections in a timely fashion and has instead filed a Motion to Stay and Motion to Replace, Dkts. #10 and #11.
- 2) The Court DENIES Petitioner's Motion to Stay, Dkt. #10. Petitioner fails to present good cause for the requested relief. This Motion in effect recharacterizes Petitioner's Objections, Dkt. #8.
- 3) The Court ADOPTS the Report and Recommendation. Petitioner has failed to present any reasonable basis to challenge Judge Tsuchida's analysis.

1 4) The Clerk shall refer the federal habeas petition to the Circuit Court of Appeals for the
2 Ninth Circuit for review as a second or successive habeas petition.

3 5) The Clerk shall administratively close the matter.

4 6) The Clerk shall provide a copy of this Order to Petitioner.

5 DATED this 3rd day of January, 2022.

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8 RICARDO S. MARTINEZ
9 CHIEF UNITED STATES DISTRICT JUDGE
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